


SUBMITTAL CHECKLIST

Applications must include the items on this checklist, and the checklist, to be complete

This submittal checklist and application is for formal requests to change the comprehensive plan or development regulations pursuant to state law (RCW [36.70A.470](#)) and Everett Planning Director Interpretation 2023-01.

For questions, or to submit an application, contact Karen Stewart at kstewart@everettwa.gov.

For all amendments	
<input type="checkbox"/> 1. Meeting with Planning Staff	A pre-application meeting is required with Planning staff (Long Range Division) prior to submitting this application. To schedule a meeting contact Karen Stewart at (425) 257-7186 or kstewart@everettwa.gov .
<input type="checkbox"/> 2. Applicant name and address	<i>Kristin Hall</i> <i>603 33rd Street</i> <i>Everett, WA 98201</i>
<input type="checkbox"/> 3. Other contacts (if applicable)	<i>[Insert other contacts here]</i>
<input type="checkbox"/> 3. Amendment category	Highlight all that would require amendment as part of the proposal: <ul style="list-style-type: none"> ○ Comprehensive plan – text, goals, objectives, policies ○ Comprehensive plan – land use map ○ Development regulations – Title 19 EMC ○ Development regulations – Zoning map ○ Development regulations – Maximum building height map ○ Development regulations – Street designation map
<input type="checkbox"/> 4. Narrative Statement and criteria	Written statement describing the exact request, the reason for the request, and how the request meets applicable criteria. Use Attachment A.
<input type="checkbox"/> 5. Environmental Checklist	Submit one completed and signed copy of the SEPA Environmental Checklist and Optional Worksheet for Non-Project Review, available on Ecology's website: https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-document-templates
For site-specific amendments	
<input type="checkbox"/> A. Map of Site (for location-specific amendments)	For location-specific amendments, a map clearly showing the area the request would apply to.
<input type="checkbox"/> B. Property owner name(s) and address(es)	Kristin Hall - individually and on behalf of Port Area Residents, an unincorporated neighborhood association 603 33 rd Street Everett, WA 98201
Signature	
<input type="checkbox"/> Applicant signature	

Attachment A

Narrative Statement and Evaluation Criteria

All applications must be accompanied by a narrative statement describing how the proposal is consistent with the following applicable criteria. Staff can only recommend that a proposal advance if it meets the applicable criteria.

Description of the exact request	Amend Section 19.17 of the EMC to remove all references to a Port Compatibility Area (PCA), including removal of the Port Compatibility Area from Map 17-2.
Reason for the request	<p><i>Inadequate public notice.</i></p> <p>The 2020 revisions to Chapter 19.17 EMC adding a Port Compatibility Area (PCA) were adopted without adequate public notice. In 2018, in response to neighborhood concerns (explained below), the City withdrew a proposal to establish a Port Compatibility Area. Residents, relying on the City's good faith, assumed that if the proposal were to be brought forward again, they would receive meaningful public notice and have an opportunity to reiterate their concerns.</p> <p>Instead, as shown by documents obtained in response to a public record request, shortly after the proposal was withdrawn City staff began working behind the scenes with Port staff to bring the proposal forward again. This work was done with no input from, and without the knowledge of, the affected residents, even though their concerns were well-known. For example, at the March 20, 2018, Planning Commission meeting, a neighbor raised the concern that the proposed PCA would discourage the Port from working with the neighborhood on noise issues. Commissioner Carly McGinn noted she had heard the same concerns. Planner David Stalheim acknowledged he had received similar comments from several neighbors as well as feedback from Administration and the Mayor, and therefore Planning had decided to withdraw the proposal and not reintroduce it until more information had been gathered. Residents naturally assumed they would be told if the proposal were back on the table.</p> <p>But after months of collaboration between the Port and City, with no public participation, the proposal, with minor revisions, was approved and incorporated into the zoning code as part of the 2020 Rethink Zoning initiative. A review of the City's public engagement efforts in connection with Rethink Zoning confirms that the City made no effort whatsoever to apprise affected residents of this significant zoning change. To the contrary, City staff affirmatively misrepresented to residents that there would be no significant zoning changes they should be concerned about. For example, in a February 2020 Port Gardner Neighborhood Association meeting, planning staff described the primary purposes of the proposed zoning changes as (1) simplifying the code, and (2) increasing access to affordable housing. Attendees were informed via handout that "most areas will maintain a zoning designation very similar to the current zoning." The handout then describes ten zoning types, with no reference to a PCA – <u>the single most</u></p>

important zoning change for area residents.

Again, at the North Everett public forum conducted by the City in June 2020 to discuss the proposed zoning changes, not a single reference was made to the proposed PCA. Rather, the changes were characterized in the applicable handout as “updating and modernizing” the Code with specified goals, which included reducing duplication, improving organization, and providing better access to information. The handout then showed the existing zoning map followed by the proposed new zoning map, including significant detail regarding the proposed changes, with no reference to the PCA.

Because of the lack of meaningful public notice, most Rucker Hill residents are still unaware of this development (and thus will miss the deadline for applying for a zoning change). An informal survey of port area residents who I personally know has not identified a single homeowner, including homeowners who expressed strong interest in this issue in 2018, who was aware they now live in a PCA. Those who have become aware are shocked and angry. They feel deceived by the City and Port. As more residents become aware of this situation there will be many more angry residents looking for the City to make this right. For that reason, this application is being submitted on behalf of Kristin Hall individually and also on behalf of Port Area Residents, an unincorporated neighborhood association, which is expected to grow in membership as this issue becomes more widely known.

Neighborhood concerns

The main concern of affected residents is that the regulations and map imply that the historic Rucker Hill neighborhood is now nothing more than an industrial buffer zone intended to absorb the Port’s negative impacts. This is the reason the proposal was withdrawn in 2018. It was understood that this was an unintended consequence.

The primary purpose of the Port Compatibility Area appears to be to ensure that developers of new multifamily projects incorporate noise mitigation measures into construction to avoid conflict with the Port (i.e., so new residents would not complain about Port noise). But the effect of the regulations is that homeowners now find the following description of their neighborhood codified in the EMC:

Your real property is located within the Port Compatibility Area (PCA). Occupants of properties within the PCA may be subject to inconveniences or discomforts arising from marine activities, including but not limited to noise, odors, glare, fumes, dust, construction activity, smoke traffic, hours of operations, low overhead flights and other maritime activities. . . . The City of Everett has adopted PCA regulations in Chapter 10.17 EMC which may affect you and your land.

Together with the map, this will have two unintended and unfair results. First, the negative impact on the resale value of homes in this otherwise desirable and sought-after neighborhood is obvious and significant. Any potential buyer will see the

neighborhood described as essentially an industrial zone. Second, it will thwart the neighborhood's longstanding efforts to persuade the Port to take commercially reasonable steps to minimize noise and other impacts on the neighborhood. Any such effort will be met with, "what are you complaining about – you're in a Port Compatibility Area." The Port provides a regional economic benefit, but that benefit should not come at the expense of sacrificing one of Everett's charming and historic residential neighborhoods.

Excluding the public from participating in development of the PCA resulted in regulations that are over-broad, unclear, and lack exemptions and protections contained elsewhere in chapter 19.17 for the Airport Compatibility Area.

The administrative record of the development of the PCA (to the extent it is publicly available) suggests that the purpose of the PCA was to require developers of new multi-family developments over 10,000 square feet near the Port to consult with the City and Port and incorporate design features to reduce incompatibility (i.e., make sure new residents don't complain about noise and other Port impacts). But as drafted, chapter 19.17 implies that the entire port area residential neighborhood is now an industrial buffer expected to absorb negative impacts from the Port without complaint or recourse. Informed public participation would have avoided this result, as well as the deficiencies described below.

Because of imprecise drafting, it is unclear whether chapter 19.17.110.B applies to all properties within the PCA or just new development exceeding 10,000 square feet.

Public participation would have brought to the planning department's attention the obvious discrepancy between the Port Compatibility Area regulations and the Airport Compatibility Area regulations. The Airport PCA regulations in chapter 19.17.030 and .040 exempt minor exterior alterations, and more importantly, exclude preexisting uses. The main flaw with the Port PCA regulations is that they encompass the entirety of an existing historic neighborhood rather than emphasizing that the neighborhood is an important residential area deserving of consideration and only large new development is expected to take special note of the Port's impacts.

Chapter 19.17 EMC does not accurately reflect existing law or the intent of the Comprehensive Plan.

The Port Compatibility regulations imply that port compatibility is a one-way street, i.e., that the Port has no responsibility to minimize its impacts on existing residences. While it is prudent to require new multi-family developments to take Port impacts into consideration, neither the law nor the Comprehensive Plan, nor common sense and fairness, relieve the Port of its responsibility to take commercially reasonable measures to control its negative impacts on nearby, existing residential neighborhoods.ⁱ

Marine Port Core Area Goal 11.1.1(b) refers to protecting marine uses "while respecting the rights of all property owners." [Emphasis added.] The Port Compatibility Area does

not respect the rights of all property owners; to the contrary, it significantly diminishes the value of residential properties.

Policy 11.1.5, Compatibility, states that development standards should be adopted “to protect the livability of adjacent areas.” Port impacts, especially but not limited to noise, have had a devastating impact on the quality of life of neighborhood residents. Ample research shows the significant adverse effects that noise pollution and sleep deprivation have on the mental and physical well-being of affected individuals. Neighborhood residents describe the ever-increasing port noise as like “trying to sleep with an alarm clock going off all night.” Keeping the PCA in place will discourage the Port from taking commercially reasonable measures to mitigate these impacts.

Policy 11.1.6, Noise, states that marine activities must comply with Sections 20.08.040 and 20.08.050 of the City’s noise regulations. In other words, the Port is not exempt from noise regulations, contrary to the implication of chapter 19.17 EMC that neighbors simply have to put up with noise whether or not it complies with noise regulations. This inaccurate portrayal of the Port’s responsibility to comply with noise regulations is reflected in EMC 19.17.110.B.1, which states in part: “Provisions of EMC 20.08 provide that noise exemptions apply to “[noise] created by watercraft . . . in operation . . .” To the extent this language is intended to imply that all port operations are exempt, that is incorrect. The exemption is for “watercraft . . . in operation,” not the onshore activities associated with loading and unloading vessels already docked, which are the main source of the noise that plagues the neighborhood during the day and, more distressingly, throughout the night.

When this applicant purchased her Rucker Hill home in 2006, the Port’s Shoreline Management Act Shoreline Substantial Development permit for its newly installed cranes included a condition that loading and unloading vessels would not occur between the hours of 10p.m. and 7 a.m. “except in cases of business necessity.”ⁱⁱ This further supports the recognition of the Port’s obligation to minimize impacts on the neighborhood, which seems to be ignored in chapter 19.17 EMC, and which the Port has increasingly ignored.

Numerous other comprehensive plan policies concerning livability, preserving the character of existing neighborhoods, and the health, safety, and welfare of Everett’s residents, also support the request in this application.

Whether the cause of the City’s botched public engagement process was planning staff turnover or undue deference to the Port at the expense of Everett residents, the residents within the PCA have been deprived of any meaningful opportunity to explain their concerns and offer an alternative approach that accomplishes the fundamental purpose of the regulations but avoids the significant unintended consequences to existing homeowners within this area. Repealing the PCA regulations and zoning map designation will provide an opportunity to rectify this error.ⁱⁱⁱ

Clearly and completely address the factors below for each amendment category selected in question 3

Comprehensive plan – text, goals, objectives, policies

EMC 15.03.400(E) The following factors shall be considered in reviewing proposed amendments to comprehensive plan policies.

1. Have circumstances related to the subject policy changed sufficiently since the adoption of the plan to justify a change to the subject policy? If so, the circumstances that have changed should be described in detail to support the proposed amendment to the policy.

[Insert comments here]

2. Are the assumptions upon which the policy is based erroneous, or is new information available that was not considered at the time the plan was adopted, that justify a change to the policy? If so, the erroneous assumptions or new information should be described in detail to support the proposed policy amendment.

[Insert comments here]

3. Does the proposed change in policy promote a more desirable growth pattern for the community as a whole? The manner in which the proposed policy change promotes a more desirable growth pattern should be described in detail.

[Insert comments here]

4. Is the proposed policy change consistent with other existing plan policies, or does it conflict with other plan policies? The extent to which the proposed policy change is consistent with or conflicts with other existing policies should be explained in detail.

[Insert comments here]

Comprehensive plan – land use map

EMC 15.03.400(D) The following factors shall be considered in reviewing requests to amend the comprehensive plan land use map.

1. The proposed land use designation must be supported by or consistent with the existing policies of the various elements of the comprehensive plan.

[Insert comments here]

2. Have circumstances related to the subject property and the area in which it is located changed sufficiently since the adoption of the land use element to justify a change to the land use designation? If so, the circumstances that have changed should be described in detail to support findings that a different land use designation is appropriate.

[Insert comments here]

3. Are the assumptions upon which the land use designation of the subject property is based erroneous, or is new information available which was not considered at the time the land use element was adopted, that justify a change to the land use designation? If so, the erroneous assumptions or new information should be described in detail to enable the planning commission and city council to find that the land use designation should be changed.

[Insert comments here]

4. Does the proposed land use designation promote a more desirable land use pattern for the community as a whole? If so, a detailed description of the qualities of the proposed land use designation that make the land use pattern for the community more desirable should be provided to enable the planning commission and city council to find that the proposed land use designation is in the community's best interest.

[Insert comments here]

5. Should the proposed land use designation be applied to other properties in the vicinity? If so, the reasons supporting the change of several properties should be described in detail. If not, the

	<p>reasons for changing the land use designation of a single site, as requested by the proponent, should be provided in sufficient detail to enable the planning commission and city council to find that approval as requested does not constitute a grant of special privilege to the proponent or a single owner of property.</p> <p><i>[Insert comments here]</i></p> <p>6. What impacts would the proposed change of land use designation have on the current use of other properties in the vicinity, and what measures should be taken to assure compatibility with the uses of other properties in the vicinity?</p> <p><i>[Insert comments here]</i></p> <p>7. Would the change of the land use designation sought by the proponent create pressure to change the land use designation of other properties in the vicinity? If so, would the change of land use designation for other properties be in the best long-term interests of the community in general?</p> <p><i>[Insert comments here]</i></p>
Development regulations – Title 19 EMC	<p>EMC 15.03.300(C)(4) The city may amend the text of the unified development code if it finds that:</p> <ul style="list-style-type: none"> a. The proposed amendment is consistent with the applicable provisions of the Everett comprehensive plan; and See above. b. The proposed amendment bears a substantial relation to public health, safety or welfare; and See above. c. The proposed amendment promotes the best long-term interests of the Everett community See above.
Development regulations – Zoning map	<p>EMC 15.03.300(B)(4) The review authority may approve an application for a site-specific rezone if it finds that:</p> <ul style="list-style-type: none"> a. The proposed rezone is consistent with the Everett comprehensive plan; and See above. b. The proposed rezone bears a substantial relation to public health, safety or welfare; and the proposed rezone promotes the best long-term interests of the Everett community; and See above. c. The proposed rezone mitigates any adverse impact(s) upon existing or anticipated land uses in the immediate vicinity of the subject property. See above. d. If a comprehensive plan amendment is required in order to satisfy subsection (4)(a) of this section, approval of the comprehensive plan amendment is required prior to or concurrently with the granting of an approval on the rezone. <p><i>[Insert comments here]</i></p>
Development regulations – Maximum building height map	
Development regulations – Street designation map	

ⁱ It is worth noting that some of the homes in the Rucker Hill neighborhood were constructed before the Port was legally established in 1918 and all were constructed before the recent South Terminal expansion, which dramatically increased hours of operation and noise impacts on the neighborhood.

ⁱⁱ I am awaiting the City's response to a Public Records Act request to determine whether this condition has also been conveniently eliminated without adequate notice to the neighborhood.

ⁱⁱⁱ This application is filed for two reasons: 1) repealing the referenced regulations is the simplest and fairest way to remedy the situation; and 2) it forecloses a defense of failure to exhaust administrative remedies in the event residents are forced to bring a legal challenge to chapter 19.17 EMC.